

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

IN RE: PETITION OF
KNOX COUNTY PUBLIC DEFENDER

2009 MAR -9 PM 2: 28

HOWARD G. ROSEN Docket No. 174552-2

PETITION FOR WRIT OF CERTIORARI

Comes now the Petitioner, Knox County Public Defender Mark E. Stephens, who would respectfully show the Court:

On March 26, 2008, Petitioner filed in the General Sessions Court for Knox County, Tennessee a petition to suspend appointments of the Knox County Public Defender's Office ("Office") to represent defendants before the Misdemeanor Division of the General Sessions Court ("Petition"). (March 26, 2008 Petition with Exhibits, attached as **Exhibit A.**) On June 10, 2008, the General Sessions Court held a hearing on the Petition. At that hearing, Petitioner presented proof showing that the Office is entitled to the relief sought in the Petition. (Transcript of June 10, 2008 Hearing and Exhibits, attached as **Exhibit B.**) On February 25, 2009, the General Sessions Court entered an Order denying the relief sought. (February 25, 2009 Order of the Knox County General Sessions Court (signed Feb. 20, 2009), attached as **Exhibit C.**)

The February 25, 2009 Order is contrary to the requirements of Supreme Court Rule 13. As Rule 13 provides, "The court shall not make an appointment [of counsel to represent an indigent defendant] if counsel makes a clear and convincing showing that adding the appointment to counsel's current workload would prevent counsel from rendering effective representation in accordance with constitutional and professional standards." Tenn. Sup. Ct. R. 13, § 1(e)(4)(D) (emphasis added). Through his proof at the June 10, 2008 hearing, Petitioner made the requisite clear-and-convincing showing. Consequently, the General Sessions Court was required to grant Petitioner's relief, and the February 25, 2009 Order is contrary to law.

This is the first application for a writ of certiorari that the Petitioner has made in this cause.

WHEREFORE, Petitioner, Knox County Public Defender Mark E. Stephens, prays for a Writ of Certiorari to bring this case into the Chancery Court of Knox County.

Respectfully submitted,

CHAMBLISS, BAHNER & STOPHEL, P.C.

By: T. Maxfield Bahner *by: Mark Stephens*
by permission

T. Maxfield Bahner (BPR No. 001150)
Hugh J. Moore, Jr. (BPR No. 000883)
D. Aaron Love (BPR No. 026444)
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OF COUNSEL:

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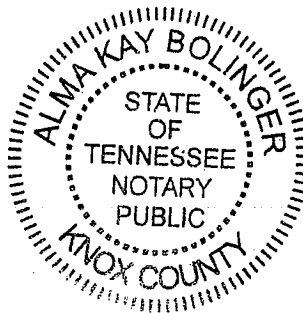
STATE OF TENNESSEE)
COUNTY OF KNOX)

Personally appeared before me, Alma Kay Bolinger a notary public in and for said county, Mark E. Stephens, who made oath that the statements made by him in the foregoing Petition are true to the best of his knowledge and belief.

Mark E. Stephens
Mark E. Stephens

Sworn to and subscribed before me this 9th day of March, 2009.

Alma Kay Bolinger
Notary Public
My Commission Expires: 6-2-12



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Docket No. _____

COST BOND

The undersigned acknowledges and hereby binds Chambliss, Bahner & Stophel, P.C., 1000 Tallan Building, Two Union Square, Chattanooga, Tennessee 37402-2500, for the payment of all costs in this Court which may at any time be adjudged against Petitioner, Knox County Public Defender Mark Stephens, in the event said Petitioner shall not pay the same if so ordered by this Court.

Witness my hand this 9th day of March, 2009.

Respectfully submitted,

CHAMBLISS, BAHNER & STOPHEL, P.C.

By: 

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FIAT

To the Clerk & Master of the Chancery Court of Knox County:

Issue the Writ of Certiorari to the Clerk of the General Sessions Court for Knox County,
as prayed for in the Petition for Writ of Certiorari submitted by Petitioner, Knox County Public
Defender Mark E. Stephens, on March 9, 2009.

Dated _____

Chancellor, Chancery Court of Knox County